

IN THE UNITED STATES DISTRICT COURT DISTRICT OF NEBRASKA

case # 4:24CV3057

Charlie B Bush Jr) Petition For Lawsuit And Motion
 vs) For Leave To Proceed In Forma Pauperis
 Duncan Aviation, Inc)
)

FILED
 U.S. DISTRICT COURT
 DISTRICT OF NEBRASKA
 2024 MAR 18 PM 3:08

Comes now ,I Charlie B Bush Jr started working at Duncan Aviation July 11 of 2022 as a level two painter. I was making 26 dollars an hour , I was the only black in my department, my supervisor name Corkey for the first week of my job went to another department for more money. The first of my hiring, I was being harrassed by a coworker Name Erick Erickson, I also reported to my supervisor that Erick had call me A Bitch and A new guy, when he snatch the paper out of my hand and one of my coworkers who was also new name Zach Hadly, Erick call me out of my name, and a week later he became my supervisor, when Corkey left and went to another department. I told my supervisor that was over Eric Erickson ,that Eric has been giving me and Zach a very hard time, Byrant Woodly ,and Doug who are over Eric Erickson didnt stop him from picking at me and Zach everyday, I was harassed, and Zach was too, and I reported that Erick was picking everyday on the job, and one day I came to work and someone stole my sander, and Erick and Jresky another supervisor that was on my shift, came up to me and told me that I was doing half the job because I didnt have my big sander. I tried

to explain that someone had took it from me off the job ,I went to turn and show Jresky how much work I had done, he grab me by the arm and told me don't turn away from him when he's talking to me , I told Jresky that he supposed be the boss but now he are acting like the other guys in this company, I reported it and nothing was ever done about it.

I would be working and I will catch Eric thowing balled up aluminum foil at me when and everybody just be laughing at me , Eric have put over half of the guys to come at me the wrong way

My back was turned , I reported it, and nothing was ever done about it. I come to work

he became my supervisor. I come to work shaking in the morning because I

know that im about to get harassed at my job by Eric Erickson and some of his followers on the job. I

put in my two weeks notice and in March of 2023 and left my jod because I couldn't take that the

Harassment , it was growing bad on my health my nerves had got so bad feel like I was gone fall out at the jod my speach had start coming out my mouth not sounding like I should talk, I go home I would cry, without my family and my kids seeing me do it, that job broke me and showed me how much a person or persons can be hurt you on a jod just about picking, I still fell the hurt the company have taken me through the pain of being a man and getting treated like you a nobody on the job, and no one will stop it, or come to your rescue. I can be doing a two man job with my help,and Eric Erickson would always come take my help away and leave me

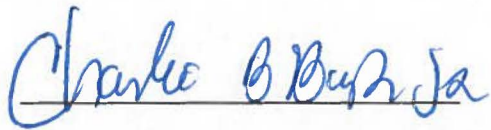
doing a two man job alone, I reported that, and nothing was done about it, it could be 20 guys in there working on a plane and I would have to put on the rubber suit to wash the plane with ladine it, I was pointed out for being black in the eyes of Eric Erickson. He didnt like me he turned his

head when I walked by him, and He would cuss towards me when I ask a simple question, I had

to

go to coworkers when I had a question. Out of all the hard work I did at Duncan, I never had a manager to help me with the big problems that I was facing harassment i'm asking the court to Grant me 4.5 million dollars for the plaintiff for what I went through at the hands of Duncan Aviation

Plaintiff ask all of this in good faith, wherefor I attaches my exhibit to petition.



Charlie B Bush Jr

Charliebushjr43@gmail.com

402-610-5402

5140 Wilshire Blvd
Lincoln NE 68504

C 402-610-5402



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

St Louis District Office
1222 Spruce, Room 8 100
St. Louis, MO 63103
(314)798-1960
Website: www.eeoc.gov

DISMISSAL AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161, 161-A and 161-B)

Issued On: 02/21/2024

To: Charlie Bush Jr.
5140 Wilshire Blvd
Lincoln, NE 68504

Re: Charlie Bush Jr. v. Duncan Aviation Inc
EEOC Charge Number: 32E-2023-00480

EEOC Representative and email: Joseph J. Wilson
State, Local & Tribal Program Manager
Joseph.Wilson@EEOC.gov

DISMISSAL OF CHARGE

The EEOC has granted your request for a Notice of Right to Sue, and more than 180 days have passed since the filing of this charge.

The EEOC is terminating its processing of this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

Please retain this notice for your records.

On Behalf of the Commission:

Digitally Signed By: David Davis 2/21/2024

David Davis
District Director

cc: Sapphire M Andersen
Baird Holm
1700 Farnam St, Ste 1500
Omaha, NE 68102

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court **under Federal law**. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive this Notice**. Receipt generally means the date when you (or your representative) opened this email or mail. You should **keep a record of the date you received this notice**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving it (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA, the ADEA, or the PFWA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA, the ADEA or the PFWA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of this Notice and within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

ATTORNEY REPRESENTATION

For information about locating an attorney to represent you, go to:
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

Nebraska Department of Labor

Appeal Tribunal
PO Box 94600
Lincoln NE 68509-4600

Appeal Decision

Charlie B Bush
5140 Wilshire Blv
Lincoln, NE 68504-0000

Claim Number:
1095820
Determination Number:
1312569726
Appeal Filed By:
Charlie Bush
Appeal Filed Date:
05/01/2023
Appeal Tribunal Docket:
2023003066-AT

APPEAL TRIBUNAL DECISION

Mail Date: May 31, 2023

Appellant

Claimant/Job Seeker: Charlie Bush
Claimant address: 5140 Wilshire Blv
Lincoln, NE 68504

Appellee

Employer: Duncan Aviation Inc
Employer address: % Joi Pool - Hr
Po Box 81887
Lincoln, NE 68501

Social Security Number: XXX-XX-1627

In regard to the appeal by Charlie Bush:

SECTION OF LAW

Neb. Rev. Stat. §§ 48-628.10, 48-628.12 and 48-628.13.

ISSUES STATEMENT

Whether the claimant voluntarily left his employment without good cause or was discharged for misconduct connected with his work.

CASE HISTORY

The claimant has appealed a Notice of Determination dated May 1, 2023, which assessed a benefit disqualification upon a finding that the claimant was separated from employment under disqualifying conditions by voluntarily leaving the employer without good cause. A hearing was held before the Nebraska Appeal Tribunal by telephone conference call on May 23, 2023. The claimant appeared and testified. Appearing on behalf of the employer was Lizzie Saale, Human Resources Generalist Two. There were no appearances on behalf of the Commissioner of Labor. The Agency Record was received into evidence as Exhibit 1. The claimant offered one exhibit which was received into evidence without objection. The employer offered three exhibits which were received into evidence without objection.

FINDINGS OF FACT

The claimant worked for the employer from July 11, 2022, through March 10, 2023. Upon separation the claimant was employed full-time as a Level Two Painter earning \$26.00 per hour. On his last day of employment the claimant worked under the immediate supervision of Eric Erickson.

According to the claimant he was subject to continuing harassment from Mr. Erickson that began the second week of the claimant's employment. The claimant believed that the harassment was based on race, as the claimant was the only Person of Color employed on his team and was the primary recipient of Mr. Erickson's harassment. For example, on more than one occasion the claimant was working with a coworker on a job that required two workers when Mr. Erickson would take the coworker off the job working with the claimant. Mr. Erickson would say that the coworker was needed for another job. However, the coworker would not be assigned to another job but would just wander around the employer's facility. The claimant was not aware of Mr. Erickson doing that with other employees. Mr. Erickson's continuing harassment made it very difficult for the claimant to perform his job. The claimant acknowledged that he had no direct evidence that Eric's harassment was based on race.

The claimant stated that he complained to his supervisor and others higher up in management about Mr. Erickson's



harassment as soon as the harassment began. However, nothing was done to address the issue except on one occasion a manager addressed the claimant's entire team and stated that there was work to be done and so everyone needed to get along better. After the claimant complained of the harassment his coworkers began calling the claimant a snitch. When the harassment did not stop the claimant decided to voluntarily quit his job.

According to Ms. Saale the employer believed that there was a personality conflict between Mr. Erickson and the claimant. The claimant was advised in his six-month review from the employer that the claimant needed to work on his ability to take constructive criticism. (Employer's Exhibit 4). Ms. Saale stated that she was not personally aware of any issues between the claimant and Mr. Erickson.

CONCLUSION OF LAW

The Nebraska Employment Security Law provides for a disqualification from benefits if an individual is found to have left employment voluntarily and without good cause. Neb. Rev. Stat. §§ 48-628.12 and 48-628.13. The Nebraska Supreme Court has stated that to leave work voluntarily means to intentionally sever the employment relationship with the intent not to return. Powers v. Chizek, 204 Neb. 759 (1979). In order to constitute "good cause," the reasons for terminating one's employment must necessarily be related to or arise out of such employment (as opposed to being predicated on personal reasons) and must be of a necessitous and compelling nature. C & A Industries, Inc. v. Ananaba, District Court of Douglas County, Nebraska, CI-12-11538 (2013) (citing Glionna v Chizek, 204 Neb 27, 281 NW 2d 220 (1979)).

Under Neb. Rev. Stat. § 48-628.13(8), good cause for voluntarily leaving one's employment can be established if the individual left his or her employment because of unlawful discrimination or workplace harassment on the basis of race, sex, or age. In In re Lovato, 89 Neb. App. Trib. 1283 (1989) the court held that since the claimant truly believed that he was being harassed because of his ethnic background, the question of whether he was actually harassed was immaterial.

To show good cause for voluntarily leaving employment, a claimant must also demonstrate that he or she examined reasonable alternatives prior to quitting. A claimant that makes no attempt to preserve the employer-employee relationship and peremptorily resigns cannot later claim that she or he left employment with good cause. Light v. Manor of Lincoln Inc., District Court of Lancaster County, Nebraska, CI 11-4662 (2012)

In voluntary termination cases, the burden of proof is on the claimant to show that he or she left the employment with good cause. Taylor v. Collateral Control Corp., 218 Neb. 432 (1984). In this case the claimant has met that burden.

Based on the evidence the Tribunal finds that the claimant reasonably believed that he was being harassed against based his race by his supervisor. If a claimant reasonably believes that he or she is being subjected to racial harassment, for purposes of determining whether the claimant voluntarily quit with good cause whether the claimant was actually being harassed based on the claimant's race is immaterial. See In re Lovato, supra. In addition, the claimant made several attempts to inform the employer of the racial harassment to request assistance in ending the harassment. See Light, supra. However, the claimant's complaints to management concerning the supervisor's racial harassment were generally ignored and the harassment continued. The Tribunal finds that the claimant had good cause for leaving his employment on the basis of race-based harassment. See Neb. Rev. Stat. § 48-628.13(8). The Notice of Determination should be reversed.

ORDER

The Notice of Determination is hereby REVERSED. It is held the claimant voluntarily left employment under non-disqualifying conditions, and is entitled to benefits for the weeks claimed, if otherwise eligible.

MARK FROGGE

Hearing Officer

Nebraska Department of Labor Appeal Tribunal

Please see the last page of this document for important information about reopening the appeal and further appeal rights.



6:38

56%

< **B** Byrant Woodley ▾



Friday, February 24

Man my foot is swollen again, can't put no pressure on it at all.

5:23 AM

Okay 5:56 AM

Monday, February 27

Hey I'm putting my two weeks in today

7:43 AM

Okay I will let doug know.

7:44 AM

7:44 AM

K

Tuesday, February 28

Kurt put your last day in as March 10th.

8:32 AM



6:39

56%

< B Byrant Woodley ▾



I got some vacation
I'm gone take before
the 10th

3:35 PM

Okay

3:35 PM

I don't plan to
leave Duncan for
good, I'm just gone
go to another
department or open
my business back
up, I'm looking at the
wood department
I'm pretty good with
wood.

4:04 PM

Oh, okay

4:04 PM

Yeah, me and Eric ,
seems like we just
can't be friends, I'm
gone leave it as tha

4:06 PM



7:04

68%



Michael

Active 10 hours ago



Can't stand that dam Eric do
act like he was racist or
something that's why I left can't
take it no more



Yeah im still here. I'll be going to
airframe the 22nd though. I've
almost fought a couple of the guys
because of how they talked about
you. They truly are racist



Don't do that ! The reason I left ,
I don't want to go to jail for
assault

Keep the peace 🕊

This was back when you were still
here.



Damn

I haven't heard much from anyone
now because I've told them we'd
have problems if they kept talking
like that



Don't get In trouble, I don't want
you to go backwards player !



Message



7:12 

   71% 

<  **Byrant Woodley** ▾



Kurt put your last day
in as March 10th.

8:32 AM

9:39 AM

Okay

Thursday, March 2

I got some vacation
I'm gone take before
the 10th

3:35 PM

Okay

3:35 PM

I don't plan to
leave Duncan for
good, I'm just gone
go to another
department or open
my business back
up, I'm looking at the
wood department
I'm pretty good with
wood.

4:04 PM



7:18

73%

< Z Zach Hardley ▾



You're right about
what you told me
Charlie. They went
from you to me now
because your off
not there today and
your 2 week's notice
isn't even up yet but
I fired back at them!
I ain't taking any shit
anymore. I'm done!
Peace 🕊

6:22 PM

You and I been
always treated
differently and
singled out inside
that group and I will
probably not change
either but I got away
of fixing it

6:25 PM

Saturday, March 4



7:22

74%

< Z Zach Hardley ▾



They work on
a system of
aggravation so you
get sick of it being
under their pressure
and eventually you
quit. Just a bad
feeling Charlie

9:51 AM

We will just see what
happens

9:52 AM

Talk to them head
up, Eric said my
work was bad when
Woodley said it was
good, just go have a
face to face talk with
Brian, look him in
the eyes and tell him
these guys not treat
you right.

9:52 AM

Yelp that what



7:24

75%

< Z Zach Hardley ▾

⋮

I know they did and
some days both of us
together they got on
both of us

9:59 AM

I just don't
understand any of it
or even why. We are
nice older people.
Never wanted any
trouble

10:00 AM

Yeah man they
harassed me so
much up in there I
was going to catch
a charge up in there
and go to jail or I
just had to get out
of there while I had
money

I didn't want to leave
the job I just didn't



7:25

75%

< Z Zach Hardley ▾



Yeah man they harassed me so much up in there I was going to catch a charge up in there and go to jail or I just had to get out of there while I had money

I didn't want to leave the job I just didn't want to deal with the people

10:01 AM

That's what I see what they are doing to me now that you have left. My nerves are not relaxed while at work unless I'm working on Cody Hassies team like I am today

10:04 AM



7:26

75%

< Z Zach Hardley ▾



Place has a lot of
hatred, gossip and
favoritism

9:52 AM

Your gone and they
still talk about you.
That just goes to
show how they are
here

9:53 AM

9:56 AM

One day, I will be back
as they boss. Lol

Complain and bitch.
Negative atmosphere
to be around Charlie.
I'm gonna work soon
on finding a better
job real soon! I miss
your company around
here.... I don't give a
shit what they say
about you and or
beina gone!

9:56 AM



7:30

76%

< Z Zach Hardley ▾



Can't afford to leave.
Got to pay bills and
Can't afford the
lawyer

12:52 PM

Okay, well, take it
easy, I'm about to eat
😁 lol !

Hit you later, or hit
me !

12:53 PM

Okay my friend. I
missed your company
man. Fuck those ass
holes on our working
team! I also went to
HR too and talked
about the difficulty
we had and was told
the thing said was
not right but was
instructed that the
best thing to do was



7:31

77%



Zach Hardley



We were both miss
treated!

12:58 PM

Feel ya, I know, hit you
back .

12:59 PM

Talk to you later.
Enjoy your weekend!



12:59 PM

Friday, April 7

6:02 PM

What up Zach ?

Not a whole lot man.
My 97 yr grandfather
passed away just
yesterday afternoon.

6:04 PM

Sorry to hear that. I
always have a bad
timing.

6:05 PM



7:32

77%

< Z Zach Hardley ▾

⋮

Woolsey and Kurt
did my yearly review
Wednesday. Wasn't
the worst but Wasn't
the best. I get a
slap in the face 50
cent raise and told I
need still improving
because of Eric and
Drecky been working
on my to quit since
you have left. But
guess what? They
failed and I ain't that
easy

6:14 PM



Just fix that I



7:37     •   79% 

< Zach Hardley
6:34 PM, Apr 7

I told Woolsey and Kurt that that place operates on favoritism and Kurt said we pretty much corrected that issue way back long time ago. He said and covered it up by saying the situation is the certain people who are not putting in there full effort and making the hard workers there do their job as well as yours and that what you confused with thinking of favoritism! I thought to myself bull shit! And kept my comments to myself! I will win in the end and won't be them. Always one step ahead, ALWAYS!!


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More



7:38

79%

< Z Zach Hardley ▾



There are way much
more better job out
there and I'm gonna
start looking while
on light duty on their
workman's comp.
Fuck them people!

6:42 PM

Zach, I got paid over
that way more then
that way over that
before I left.

6:42 PM

Really?

6:42 PM

I got a good check,
that's why I never
missed a day.

6:43 PM

Really !!!!!!!!!!!!!!!

So what they pay you
if you don't mind me
asking?



6:43 PM



7:38

79%

< Z Zach Hardley ▾



asking:

6:43 PM

6:43 PM

Sorry that's my
business !

Ok but Doubtful as a
level 2 painter

6:48 PM

Got to be level 3
painter to make that
past even a \$23
wage! Hard time in
believing

6:50 PM

Gots to go hook up
with my buddy 👍

6:51 PM

6:53 PM

Ha ha , good one, but,
I'm gone keep my
word to what I agreed
to.

Just repeating what
was said by Bohac



7:39

80%

< Z Zach Hardley ▾



6:57 PM

All good !



6:58 PM



6:58 PM

Have a good weekend man. I wouldn't think about Duncan anymore but up to you. I rather find better people to be around and less toxic environments as well as the toxic people because that place don't care!

7:01 PM

7:03 PM

You to



7:40

80%

< Z Zach Hardley ▾



Maybe we both
crazy.... don't ya
think? 🤔

5:52 PM

6:02 PM

Lol



6:02 PM

Monday, May 1

11:27 AM

Where you at Zach ?

What do you mean?

11:27 AM

11:28 AM

I file for
unemployment and
they said I walked
out !

What?

11:28 AM



Lying MF



7:41

80%

< Z Zach Hardley ▾



I file for
unemployment and
they said I walked
out !

11:28 AM

What? 11:28 AM

11:28 AM

Lying MF !

You didn't walk out 11:28 AM

11:28 AM

I know

Hostile work
environment, the
reason , I left.

11:29 AM

I appeal it

I remember you used
up vacation before
you left

11:29 AM ▾



7:42  81% 

< Zach Hardley
11:35 AM, May 1

The place is nuts at paint shop. To much gossip and favoritism. They on care about the planes and the Duncan family. All about use and abuse with the paint department that is. Elsewhere is probably better up north from those paint shop people and the office staff! They will throw you under a buss if you gave them the opp



Copy text



Share



More



7:43

81%

<  Zach Hardley ▾

View all



Opportunity 11:35 AM

Yes they will !

11:36 AM

I feel for poor you !

Toxic environment 11:36 AM

It's all good. We gotta
do what we gotta do
to live and pay the
bills otherwise look
for different work in a
different department
or elsewhere

11:37 AM

Yeah man, just hang
in there and report
whoever, so when the
time comes you will
have something to
stand on.

11:41 AM



7:44

81%

  **Zach Hardley** 

Friday, May 12

What up Charlie? Did you get everything figured out with Duncan and the unemployment situation?

9:23 PM

I'm just hanging in there doing my thing as the usual.

9:24 PM

Saturday, May 13

9:22 AM

Zach, what's the business ?

What business is that ?

9:23 AM

Don't know whatcha mean

9:24 AM

Just surviving myself



7:44

81%

< Z Zach Hardley ▾



Just surviving myself.
How about you?

9:25 AM

That means what's
going on !

9:29 AM

Oh, not to much but
trying to survive
at that place. I'm
thinking about finding
a job elsewhere
because of how this
place does everything

9:32 AM

There has to be better
places out there to
work with just as
good of benefits surly

9:34 AM

Well, I got a meeting
with unemployment
on the 23rd of this
month. I left cause
of Eric tired of his



7:46

82%

< Z Zach Hardley ▾



Well, I got a meeting with unemployment on the 23rd of this month. I left cause of Eric, tired of his harassment. Every fucking day, that guy makes me sick !

9:34 AM

I'm not around them no more.

9:36 AM

Where you working at now ?

9:40 AM

Holla !

9:45 AM

We were not treated and talked to fairly between all the team members. We were separated as a couple morons.



7:46

   82% 

Zach Hardley

9:46 AM, May 13

We were not treated
and talked to fairly
between all the
team members. We
were separated as
a couple morons.
Poor crew leadership
and improperly
communication. To
fit in was a struggle
Plus being ignored and
unattended for training
so learning capabilities
would be manageable
but it didn't turn out as
the ending results



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Share



More



8:17    96% 

< Me
11:24 AM, May 1

You and Doug did me real good at the job ! I'm asking for my unemployment , because I should still be working there, but, I couldn't handle one more day there dealing with Eric, you told me the flaps was great at my 6 months review, Eric came and told me they looked like shit. Well bottom line , I was done getting harassed by Eric, and I did what I had to do and tried to leave on good terms . Well I appeal my case and not trying to bring forth anymore action at Duncan, bad when you come to work shaking in the morning because of all the bullshit a person gives you everyday. I FEEL FOR POOR Zach !



Copy text



Share



More



8:18



96%



B

Byrant Woodley ▾



because I should still be working there, but, I couldn't handle one more day there dealing with Eric, you told me the flaps was great at my 6 months review, Eric came and told me they looked like shit. Well bottom line

View all



11:24 AM

Wednesday, May 3

I had no intention on letting Eric get away with anything bad as he treated me and I took it for 9 months

12:55 PM

Picking at me everyday

12:56 PM



7:45     •

   50% 



Michael

Active Now



Can't stand that dam Eric do
act like he was racist or
something that's why I left can't
take it no more




Yeah im still here. I'll be going to
airframe the 22nd though. I've
almost fought a couple of the guys
because of how they talked about
you. They truly are racist



Don't do that ! The reason I left
I don't want to go to jail for
assault



Keep the peace 



This was back when you were still
here.

Damn



I haven't heard much from anyone
now because I've told them we'd
have problems if they kept talking
like that

Don't get In trouble, I don't want
you to go backwards player !



Message

